

IN THE CLAIMS

Please amend claims 1, 16 and 29 as indicated below:

Claim 1 (Previously and Currently Amended)

A composite material comprising:

a) a non-foamed substrate material [essentially without any blowing agent] comprising:

1) a non-foamed ABS terpolymer resin present in an amount of from 20 to 75 weight percent based on the total weight of the substrate material; [and essentially without any blowing agent;]

2) cellulosic material present in an amount of from 25 to 75 weight percent based on the total weight of the substrate material; and

b) a coextruded capstock material bonded to the substrate material, the capstock material comprising, a non-foamed weather resistant thermoplastic material [essentially without any blowing agent and] other than the ABS terpolymer resin, and

the capstock material being compatible with the substrate material such that additional adhesives are not required to bond the substrate with the capstock.

Claim 2 (Original)

The composite material of Claim 1 wherein the substrate material further includes a polar thermosetting material.

Claim 3 (Original)

The composite material of Claim 2 wherein the polar thermosetting material is present in an amount of less than 15 weight percent based on the total weight of the substrate material.

Claim 4 (Original)

The composite material of Claim 2 wherein the polar thermosetting material is selected from the group consisting of: polyurethanes, polyethylenes, and polystyrenes.

Claim 5 (Original)

The composite material of Claim 1 wherein the cellulosic material is present in an amount of from 35 to 45 weight percent based on the total weight of the substrate material.

Claim 6 (Original)

The composite material of Claim 1 wherein the cellulosic material is selected from the group consisting of: wood sawdust, seed husks, rice hulls, newspaper, kenaf, coconut shells, bagasse, corn cobs, peanut shells, paper pulp and mixtures thereof.

Claim 7 (Original)

The composite material of Claim 1 wherein the substrate material further includes PVC.

Claim 8 (Original)

The composite material of Claim 7 wherein the PVC is present in an amount of less than 15 percent by weight based on the total weight of the substrate material.

Claim 9 (Original)

The composite material of Claim 1 wherein the capstock material is coextruded with the substrate material to form the composite material.

Claim 10 (Original)

The composite material of Claim 9 wherein the capstock material comprises PVC.

Claim 11 (Original)

The composite material of Claim 1 wherein the moisture content of the substrate material at a time of mixing and compounding is less than one percent.

Claim 12 (Original)

The composite material of Claim 1 wherein the substrate material is bonded with the capstock material in a coextrusion process directly following a mixing and compounding step of the substrate material.

Claim 13 (Original)

The composite material of Claim 1 wherein the substrate material is processed to form a pellet that is then further utilized in a coextrusion process wherein the capstock material is bonded with the substrate material.

Claim 14 (Original)

The composite material of Claim 13 wherein the pellet has a moisture content of less than .3 percent when utilized in the coextrusion process.

Claim 15 (Original)

The composite material of Claim 1 wherein the composite material further includes additives, stabilizers, plasticizers, UV additives, lubricants, and compatibilizers.

Claim 16 (Previously and Currently Amended)

A composite material comprising:

a) a non-foamed substrate material [essentially without any blowing agent] comprising:

1) a non-foamed ABS terpolymer resin present in an amount of from 20 to 75 weight percent based on the total weight of the substrate material; [and essentially without any blowing agent;]

2) cellulosic material present in an amount of from 25 to 75 weight percent based on the total weight of the substrate material;

3) a non-foamed polar thermosetting material present in an amount of from 0.1 to 15 weight percent based on the total weight of the substrate material; and [essentially without any blowing agent;]

b) a coextruded capstock material bonded to the substrate material, the capstock material comprising, a non-foamed weather resistant thermoplastic material [essentially without any blowing agent and] other than the ABS terpolymer resin[;] , and

the capstock material being compatible with the substrate material such that additional adhesives are not required to bond the substrate with the capstock.

Claim 17 (Original)

The composite material of Claim 16 wherein the polar thermosetting material is selected from the group consisting of: polyurethanes, polyethylenes, and polystyrenes.

Claim 18 (Original)

The composite material of Claim 16 wherein the cellulosic material is present in an amount of from 35 to 45 weight percent based on the total weight of the substrate material.

Claim 19 (Original)

The composite material of Claim 16 wherein the cellulosic material is selected from the group consisting of: wood sawdust, seed husks, rice hulls, newspaper, kenaf, coconut shells, bagasse, corn cobs, peanut shells, paper pulp and mixtures thereof.

Claim 20 (Original)

The composite material of Claim 16 wherein the substrate material further includes PVC.

Claim 21 (Original)

The composite material of Claim 20 wherein the PVC is present in an amount of less than 15 percent by weight based on the total weight of the substrate material.

Claim 22 (Original)

The composite material of Claim 16 wherein the capstock material is coextruded with the substrate material to form the composite material.

Claim 23 (Original)

The composite material of Claim 22 wherein the capstock material comprises PVC.

Claim 24 (Original)

The composite material of Claim 16 wherein the moisture content of the substrate material at a time of mixing and compounding is less than one percent.

Claim 25 (Original)

The composite material of Claim 16 wherein the substrate material is bonded with the capstock material in a coextrusion process directly following a mixing and compounding step of the substrate material.

Claim 26 (Original)

The composite material of Claim 16 wherein the substrate material is processed to form a pellet that is then further utilized in a coextrusion process wherein the capstock material is bonded with the substrate material.

Claim 27 (Original)

The composite material of Claim 26 wherein the pellet has a moisture content of less than .3 percent when utilized in the coextrusion process.

Claim 28 (Original)

The composite material of Claim 16 wherein the composite material further includes additives, stabilizers, plasticizers, UV additives, lubricants, and compatibilizers.

Claim 29 (Previously and Currently Amended)

An extruded article produced by coextruding a composite material, the composite material comprising:

a) a non-foamed substrate material [essentially without any blowing agent] comprising:

1) a non-foamed ABS terpolymer resin present in an amount of from 20 to 75 weight percent based on the total weight of the substrate material; [and essentially without any blowing agent;]

2) cellulosic material present in an amount of from 25 to 75 weight percent based on the total weight of the substrate material; and

b) a co-extruded capstock material bonded to the substrate material, the substrate material comprising, a non-foamed weather resistant thermoplastic material [without any blowing agent and] other than the ABS terpolymer resin[;], and

the capstock material being compatible with the substrate material such that additional adhesives are not required to bond the substrate with the capstock in the coextrusion process.

REMARKS

The withdrawal of the rejection of all claims 1-29 under §103 in view of applicant's prior amendment of the independent claims 1, 16 and 29 and supporting arguments is acknowledged with appreciation.

§112 Rejection & Telephone Interview

Presently, claims 1-29 are rejected only under §112, first paragraph, as containing new matter. Based on a telephone interview with the Examiner on December 5, 2003, applicant's undersigned attorney William Francis understands this new matter rejection is limited to only the phrase "essentially without any blowing agent" and that deletion of this phrase would place the claims in a condition for allowance. This is consistent with the statement in the Office Action that the "specification does provide for a non-foamed acrylonitrile-butadiene-styrene (ABS) terpolymer or a non-foamed composite as recited in amended claims 1, 16 and 29."

In the prior amendment, the now deleted phrase "essentially without any blowing agent" was added simply to emphasize that both the substrate material including the ABS terpolymer and the capstock material are "non-foamed". Applicant believes that in view of the written description, persons of ordinary skill would appreciate that non-foamed resin material is essentially without any blowing agent since this agent is utilized to produce foamed material and thus this phrase did not introduce any new matter. In any event, the current amendment deletes this phrase from all of the independent claims 1, 16 and 29 and hence as amended all of the claims are believed to now comply with §112 and to be in proper form for allowance and such action is respectfully requested.

Conclusion


In view of the foregoing amendment, the §112 rejection is believed to have been obviated and all of the claims are now in a proper condition for allowance and reconsideration and allowance thereof as amended is requested.

If, after considering this response, the Examiner believes any of the claims are not in a condition for allowance, a telephone interview with applicant's attorney William Francis is requested so that immediate consideration can be given to any further amendments suggested by the Examiner or otherwise needed to place all the claims in condition for allowance. William Francis can normally be reached by telephone at (248) 689-3500 Monday through Friday between 9:00 A.M. and 5:00 P.M.

Respectfully submitted,

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WHF:sal

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DETAILED ACTION

1. Applicant's amendment and accompanying remarks filed July 14, 2003 have been acknowledged.
2. Examiner acknowledges amended claims 1, 16 and 29.
3. The rejection of claims 1-29 under 35 U.S.C. 103(a) as being unpatentable over Finley, U.S. Patent Number 6,054,207 in view of Summers et al., U.S. Patent Number 4,100,325 is withdrawn due to applicant's amended claims and argument.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
5. Claims 1-29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Amended claims 1, 16 and 29 contain new matter. The specification ^{not} does provide for a non-foamed acrylonitrile-butadiene-styrene (ABS) terpolymer or a non-foamed composite as recited in amended claims 1, 16 and 29.

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6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Carrie S. Thompson whose telephone number is (703) 305-4488. The examiner can normally be reached on Monday through Friday from 7:30 am to 4:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia H. Kelly, can be reached at (703) 308-0449. The fax phone number for the Group is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

CYNTHIA H. KELLY
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Cynthia H. Kelly



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REISING, ETHINGTON, BARNES, KISSELLE, LEARMAN & McCULLOCH, P.C. P.O. Box 4390 Troy, MI 48099-4390			EXAMINER THOMPSON, CAMIE S	
			ART UNIT 1774	PAPER NUMBER

DATE MAILED: 10/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/992,196

Applicant(s)

HAYDUKE, JOHN A.

Examiner

Carnie S Thompson

Art Unit

1774

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____